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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

MDL NO. 16-2738 (FLW) (LHG)

CIVIL ACTION NO.: 3:19-CV-20394

THIS DOCUMENT RELATES TO:

*Karen Lynne Davis And James Davis v.
Johnson & Johnson, et al.*

**UNOPPOSED MOTION FOR
SUBSTITUTION OF PLAINTIFF
UNDER RULE 25(a)(1) AND FOR
LEAVE TO FILE AMENDMENT
OF COMPLAINT TO ASSERT
SURVIVAL AND WRONGFUL
DEATH CLAIMS**

James Davis, as the surviving spouse for Karen Lynne Davis, moves the Court for an Order substituting him as plaintiff in this action and leave to file the Amended Complaint asserting claims for wrongful death and survival.

James Davis should be duly substituted as plaintiff in this action under the provisions of Rule 25(a)(1) of the Federal Rules of Civil Procedure because:

1. Karen Lynne Davis, decedent, commenced this action before her death. (ECF Dkt. No. 1.)

2. Decedent Karen Lynne Davis died on December 5, 2019 due to injuries caused by the negligent acts and omissions as alleged in her original Complaint. (ECF Dkt. No. 1.) Decedent is survived by her husband, James Davis. Notice of and Suggestion of her death was filed with this Court on February 24, 2020. (ECF Dkt. No. 7.)

3. Under Mississippi law, Miss. Code § 11-7-13, a surviving spouse may bring an action for wrongful death damages.

4. Pursuant to New Jersey law, the claims made by Karen Lynne Davis against Defendants herein survive her death. N.J.S.A. 2A:15-3.¹ Under that law, the claims against the Defendants may be instituted as if the deceased person were still alive. The claims of Plaintiff Karen Lynne Davis, deceased, survive and pass to the Wrongful Death Beneficiaries.

5. A proposed First Amended Complaint also now alleging survival and wrongful death claims is attached hereto as **Exhibit A**.

6. Plaintiff's counsel has met and conferred with Defendants' counsel, who has indicated Defendants do not oppose the motion.

¹ *See also* Mississippi Wrongful Death statute, Miss. Code § 11-7-13 (allowing the right of action for personal injuries to survive the death of the injured).

7. This motion is timely in that the deadline for the Wrongful Death Beneficiaries to file a motion for substitution of parties is not expired.

Dated: February 27, 2020

Respectfully submitted,

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

By: /s/ Wendy R. Fleishman

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CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2020 a copy of the foregoing was filed electronically. Service of the filing will be made on all ECF-registered counsel by operation of the Court's electronic system. Parties may access this filing through the Court's system.

/s/ Wendy R. Fleishman
Wendy R. Fleishman